



US Army Corps
of Engineers

Construction Bulletin

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CEMP-C

Subject: Contract Modifications for Quantity Variations

Applicability: GUIDANCE

1. PURPOSE. This Construction Bulletin (CB) clarifies the policy on contract modifications for contracts that include FAR Clause 52.211-18 "Variation in Estimated Quantities" or EFARS Clause 52.212-5001 "Variation in Estimated Quantities Subdivided Items".

2. POLICY. When the contractor's earnings, in a fixed price contract with estimated quantities, are projected to exceed the total contract amount (obligated funds) due to overruns, a contract modification shall be executed on an SF 30 to add an appropriate amount of funding to the contract (based on a best estimate of anticipated actual quantities). The modifications will be issued prior to the processing of any payment that will cause the total contractor earnings to exceed the total obligated funds in the contract. In accordance with EFARS 12.402, a closeout modification will be executed on all contracts having unit priced estimated quantity items, whether a modification was previously issued to revise the contract amount or not, to document final quantities and costs.

3. IMPLEMENTATION.

a. Since these modifications do not change the scope or terms of the basic contract, they may be issued as unilateral modifications. No contractor's signature is required. The closeout modification should be issued as a supplemental agreement if it provides for an equitable adjustment.

b. The Office of the Principal Assistant Responsible for Contracting (PARC) advised that these modifications which revise the contract amount and estimated quantities cannot be issued under the category "administrative modifications." Pursuant to the FAR definition, administrative type modifications are issued to change, for example, the paying office or the appropriation data. EAL 96-3 has revised EFARS 12.402 to delete the requirement to use an administrative type modification.

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c. Modifications which are issued unilaterally will have BLOCK D "Other" on the SF 30 checked. The type of modification entered on BLOCK D will be "revision to the estimated quantities" and will be issued under the authority of the "VEQ clause." The PARC 's office advised that ACOs may, based on their warranted authority, issue unilateral modifications pursuant to the VEQ clause for the purpose of revising the estimated quantities and increasing the obligated funds.

d. The issuance of these modifications does not relieve contract administrators from their responsibility to assure that funds are available to reimburse the contractor for actual quantities performed. Contract administrators must also assure, when payments to contractors are made at the contract unit price for quantities exceeding the 15 percent range, that enough money remains in the contract to cover a possible credit modification due to a decrease in the contractor's unit costs.

4. This CB was coordinated with the following HQUSACE organizations: Office of the Chief Counsel (CECC-C); The Office of the Principal Assistant Responsible for Contracting (CEPR-ZA); and Operations, Construction, and Readiness Division (CECW-OC).


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